



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

September 12, 1975

The Honorable Dorman H. Winfrey  
Director and Librarian  
Texas State Library  
Box 12927, Capitol Station  
Austin, Texas 78711

Opinion No. H- 690

Re: The authority of the Texas  
Library and Historical  
Commission to reject the  
annual plan for service  
submitted by major resource  
centers, and related questions.

Dear Dr. Winfrey:

You have asked for our opinion as to whether the Texas Library and Historical Commission can reject the initial plan of service and subsequent annual plans of system development prepared and submitted to the Commission by a major resource center and withhold grants-in-aid to the center.

The Library Systems Act, article 5446a, V. T. C. S., requires that the Library and Historical Commission "establish and develop a state library system." Sec. 3.

A "major resource center" is defined by section 2(7) of the Act as:

. . . a large public library serving a population of 200,000 or more within 4,000 or more square miles, and designated as the central library of a major resource system for referral service from area libraries in the system, for cooperative service with other libraries in the system, and for federated operations with other libraries in the system.

Participation in the state library system requires that the major resource center:

. . . submit an initial plan of service . . . [and] [t]hereafter  
. . . submit an annual plan of system development . . . to  
the State Librarian. [Sec. 9(c)].

Additionally, the Commission may revoke the designation as a major resource center if the center fails "to meet the criteria" set for such a library. Sec. 11(c).

Section 15 of the Act empowers the Commission to promulgate rules and regulations for the administration of the Act including rules setting the qualifications for "membership" in the system and rules regarding the "program of state grants." And section 7(a) provides that the Commission can establish "standards" which a major resource center must meet to be eligible for membership in the state library system.

Under section 5, the Commission is required to adopt an "annual plan" for development of the state library system, and pursuant to a recently adopted Commission rule, the plan of service by a major resource center "must conform to the guidelines set in the annual plan . . . [as] approved by the Commission." Rules and Regulations for Third Biennium of Library Systems Act, Rule IB.

Accordingly, it is clear that the provisions of the Act and the rules and regulations promulgated thereunder empower the Commission to set "criteria," "guidelines," and "standards" for the operations of major resource centers and to review and reject any plan submitted thereunder by a center which does not conform to such criteria, guidelines and standards. The submission of an unacceptable annual plan also would empower the Commission to revoke the library's designation as a major resource center or to withhold grants-in-aid until a proper plan is submitted and approved.

If designation as a major resource center is withdrawn, a new major resource center may be designated, or libraries within the system may be transferred to another system so long as the approval of the governing bodies of such libraries is obtained. Sec. 9(b).

Should funding by way of grants be withheld, the monies previously allocated to the major resource system cannot be transferred to another system in the absence of a redistricting of the systems. Sec. 17(e). However, the allocated funds withheld from the major resource center for lack of compliance with the Act and with the rules and regulations of the Commission, can be awarded to other libraries, or prospective libraries within the system through the grants authorized by section 14.

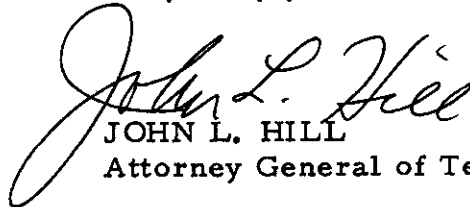
S U M M A R Y

The Library and Historical Commission may reject the initial and any subsequent annual plan submitted by a major resource center.

When there has been a rejection of a submitted plan, the Commission may revoke the library's status as a major resource center or withhold funds from the library until the plan is acceptably redrawn.


Libraries lying within a system where the plan by the major resource center is rejected, may receive direct grants from the Commission or may be transferred to other systems or a new major resource center may be designated.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman